

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

XYZ TWO WAY RADIO SERVICE,
INC., and ELITE LIMOUSINE PLUS,
INC.,

Plaintiffs,

v.

UBER TECHNOLOGIES, INC., WEITER,
LLC, HINTER, LLC, GRUN, LLC, UNTER
LLC, SCHMECKEN, LLC, and DANACH-
NY, LLC,

Defendants.

Civil Action No. _____

NOTICE OF REMOVAL

Defendants Uber Technologies, Inc., Weiter, LLC, Hinter, LLC, Grun, LLC, Unter, LLC, Schmecken, LLC, and Danach-NY, LLC (collectively “Defendants”) by their counsel, Troutman Sanders LLP, hereby file this Notice of Removal in accordance with 28 U.S.C. §§ 1441, *et seq.*, and remove the above-titled action to this Court on the following grounds:

1. On April 15, 2015, Plaintiffs XYZ Two Way Radio Service, Inc. (“XYZ”) and Elite Limousine Plus, Inc. (“Elite”) (collectively “Plaintiffs”) filed a complaint in Supreme Court of the State of New York, County of Kings, captioned *XYZ Two Way Radio Service, Inc., et al. v. Uber Technologies, Inc., et al.*, Index No. 504469/2015 (“the Complaint”). A true and correct copy of all process and pleadings served upon Defendants in this action is attached hereto as Exhibit A.
2. Each of the Defendants was served with process on or about April 24, 2015. (Ex. A, Affidavits of Service, NYSCEF Doc. No. 2.)

3. Removal is timely under 28 U.S.C. § 1446(b)(1) because fewer than thirty (30) days has elapsed since Defendants were served with process.
4. The Complaint alleges violations of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A) and (B). The Complaint also alleges violations of sections 349, 350, and 350(a) of the New York General Business Law and asserts a common-law claim for “Tortious Interference with Contractual and Business Relations.” (Ex. A, Compl. at ¶¶ 128-170, Counts I-X.)
5. This Court has original jurisdiction over Plaintiffs’ Lanham Act claims pursuant to 28 U.S.C. § 1331, which provides that the “district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” *See Vitarroz Corp. v. Borden, Inc.*, 644 F.2d 960, 964 (2d Cir. 1981).
6. This Court has supplemental jurisdiction over Plaintiffs’ state law claims pursuant to 28 U.S.C. § 1367(a), which provides, in relevant part, that “in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” The Supreme Court has interpreted this provision to mean that supplemental jurisdiction extends to claims that “derive[] from a common nucleus of operative fact” as the claims over which the federal court has original jurisdiction. *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 725 (1966); *see also Jones v. Ford Motor Credit Co.*, 358 F.3d 205, 213-14 (2d Cir. 2004).
7. Plaintiffs’ federal and state law claims arise from a common nucleus of operative factual allegations.

8. Because this Court has original jurisdiction over Plaintiffs' Lanham Act claims and supplemental jurisdiction over Plaintiffs' state law claims, and because the Supreme Court of the State of New York, County of Kings lies within this District, this action is properly removed to this Court under 28 U.S.C. §§ 1441(a) and 1446(a).
9. In accordance with 28 U.S.C. § 1446(d), Defendants will provide written notice of the filing of this Notice of Removal to Plaintiffs and will file this Notice of Removal with the Clerk of Court for the Supreme Court of the State of New York, County of Kings.

WHEREFORE, Defendants hereby remove this action from the Supreme Court of the State of New York, County of Kings, to the United States District Court for the Eastern District of New York.

Dated: May 22, 2015

Respectfully submitted,

UBER TECHNOLOGIES, INC., UBER
TECHNOLOGIES, INC., WEITER, LLC,
HINTER, LLC, GRUN, LLC, UNTER, LLC,
SCHMECKEN, LLC, and DANACH-NY,
LLC

By their counsel,
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Unter, LLC, Schmecken, LLC, and Danach-
NY, LLC

CERTIFICATE OF SERVICE

I, Katherine L. McDaniel, hereby certify that on May 22, 2015, the document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing. Paper copies will be sent by First Class Mail to those not registered.

s/Katherine L. McDaniel